

day review period by OMB and Congress. Requests for waivers shall be included in the letter of transmittal to the report. Such requests shall cite the specific provision for which a waiver is being requested with full justification showing the reasons and the adverse consequences if a waiver is not granted.

(h) *Outside review and activity.* The agency may presume OMB and Congressional concurrence if the review period has run without comment from any reviewer outside the Department of Defense. Under no circumstances shall the matching program be implemented before 30 days have elapsed after publication of the matching notice in the FEDERAL REGISTER. This period cannot be waived.

### Subpart J—Enforcement Actions

#### § 317.110 Administrative remedies.

An individual who alleges he or she has been affected adversely by a violation of the Privacy Act shall be permitted to seek relief from the Assistant Director, Resources, through proper administrative channels.

#### § 317.111 Civil court actions.

After exhausting all administrative remedies, an individual may file suit (5 U.S.C. 552a(y)) in the Federal court against the agency for any of the following acts:

(a) *Denial of an amendment request.* The Assistant Director, Resources, or designee refuses the individual's request for review of the initial denial of an amendment or, after review, refuses to amend the record.

(b) *Denial of access.* The agency refuses to allow the individual to review the record or denies his or her request for a copy of the record.

(c) *Failure to meet recordkeeping standards.* The agency fails to maintain the individual's record with the accuracy, relevance, timeliness, and completeness necessary to assure fairness in any determination about the individual's rights, benefits, or privileges and, in fact, makes an adverse determination based on the record.

(d) *Failure to comply with the Privacy Act.* The agency fails to comply with any other provision of the Privacy Act or any rule or regulation promulgated under the Privacy Act and thereby causes the individual to be adversely affected.

#### § 317.112 Criminal penalties.

The Privacy Act (5 U.S.C. 552a(i)) authorizes three criminal penalties against individuals. All three are misdemeanors punishable by fines of \$5,000.

(a) *Wrongful disclosure.* Any member or employee of the agency who, by virtue of his or her employment or position, has possession of or access to records and willfully makes a disclosure to anyone not entitled to receive the information.

(b) *Maintaining unauthorized records.* Any member or employee of the agency who willfully maintains a system of records for which a notice has not been published.

(c) *Wrongful requesting or obtaining records.* Any person who knowingly and willfully requests or obtains a record concerning an individual from the agency under false pretenses.

#### § 317.113 Litigation status report.

Whenever a civil complaint citing the Privacy Act is filed against the agency in Federal court or whenever criminal charges are brought against an individual in Federal court (including referral to a court-martial) for any offense, the agency shall notify the Defense Privacy Office, DA&M. The litigation status report included in appendix C to this part provides a format for this notification. An initial litigation status report shall be forwarded providing, as a minimum, the information specified. An updated litigation status report shall be sent at each stage of litigation. When the court renders a formal disposition of the case, copies of the court's action, along with the litigation status report reporting the action, shall be sent to the Defense Privacy Office, DA&M.